REMARKS

Claims 1-6, 9-14, and 17-20 remain pending in this application for which applicant seeks reconsideration.

Amendment

Independent claims 1 and 9 have been amended to define that the style setting data is independent of the song data, and to further define a determination portion or instruction for determining whether the style setting data in association with the song data selected from the song storage portion is stored in the style setting storage portion or not. No new matter has been introduced.

Art Rejection

Claims 1-3, 9-11, 17, and 18 were rejected under 35 U.S.C. § 103(a) as unpatentable over Nakata (USP 5,824,932) in view of Nakata (USP 5,696,343). Claims 4-6, 12-14, 19, and 20 were rejected under § 103(a) as unpatentable over Nakata '343 in view of Itoh (USP 6,175,071). Applicant traverses these rejections because none of the applied references would have disclosed or taught at least the storing/searching aspects set forth in independent claims 1 and 9, and the setting/warning aspects set forth in claims 4 and 12.

Applicant previously explained that independent claims 1 and 9 define over the previously applied references, namely Nakata '932, Aoki (USP 6,245,984), and Takeuchi (USP 5,998,724), because Nakata '932 would have taught away from searching for style data that matches with song data as it explicitly calls for modifying one or the other to match. The examiner agrees that Nakata '932 does not disclose searching the style storage for style tempo or meter to match the song tempo or meter. In this respect, the examiner now relies upon Nakata '343 for the proposition that searching for a style pattern to match the style of the song in Nakata '932 would have been obvious. Applicant disagrees.

First, as previously explained, as Nakata '932 calls for modifying the selected song data or the selected style data if they are not compatible, Nakata '932 would have taught away from searching for style data that matches with the selected song. Accordingly, the combination would not have been tenable.

Second, Nakata '343 determines whether the style data designated by the style number is registered in the style data memory (n22). See column 8, lines 36-53. Note that the style number is specified by the style number specifying event included in the song data itself. See

column 5, lines 23-51. When storing the designated style data, the new style number NSTYLE is set in the specified style number register STYLE. Then, automatic accompaniment starts in accordance with the section data designated by the style number register STYLE. On the other hand, when the style data designated by the new style number NSTYLE is not available in the style data memory (n22), Nakata '343 executes a style substitution process (n25), where a substitute style is selected based on genre, meter, and beat. See the paragraph spanning columns 10-11. In Nakata '343, the style number specifying event, which is included in the song data itself, at best corresponds to the claimed style setting data. Nakata '343 must include the style setting data in the song data, when the style setting data is to be associated with the song data.

In contrast, claims 1 and 9 call for the style setting data to be independent of the song data. Indeed, claims 1 and 9 call for storing the style setting data in association with the song data in a style setting storage portion, while storing the song data in a song storage portion. This allows the style setting data to be set without modifying the song data, even if the song data has a format (e.g., commonly used SMF) that does not allow presetting of the style data. See the paragraph spanning pages 3-4 of the present specification. Nakata '343 would merely have disclosed searching the style storage portion based on the tempo, meter, and beat, if the style setting data cannot be included in the song data, such as due to format differences.

Accordingly, even if both Nakata references were deemed properly combinable, for argument's sake, the combination still would not have disclosed or taught storing the style setting data independently of the song data, as set forth in claims 1 or 9.

As for independent claims 4 and 12, applicant previously explained that independent claims 4 and 12 define over the previously applied references, namely Nakata '932 and Aoki, as neither reference would have taught providing a warning. The examiner now relies on Ito for the proposition that providing a warning in Nakata '343 would have been obvious. In this respect, the examiner acknowledges that Ito calls for searching a keyword rather than the style data (i.e., tempo or meter). Nonetheless, the examiner asserts that it would have been expedient for one of ordinary skill in the art to apply Ito's teaching of providing a warning when no match is found in Nakata '343. Applicant disagrees.

Ito discloses searching the music data part MD of the performance data for a format specification message that specifies sound source format for reproducing a song. If the format specification message is not found, Ito calls for searching the text data of the header part HD for the keyword corresponding to a format specification message. If the keyword is not found, Ito

7

discloses displaying a warning. That is, Ito discloses generating a warning when a search does not find the necessary text data.

Claims 4 and 12 in contrast call for setting the style setting data indicating the style data to be reproduced concurrently with song data on the basis of the user's operation. A warning portion or instruction warns the user when the style data set by the user's operation does not match the song data. In other words, claims 4 and 12 call for determining whether the style data set by the user matches the song data, and displaying a warning when it does not. In contrast, Ito merely discloses displaying a warning when the search does not find the necessary text data.

Accordingly, even if the combination were deemed proper for argument's sake, Ito still would not have alleviated Nakata '343's shortcomings noted above, namely warning the user if the style setting data set by the user does not match the song data.

<u>Conclusion</u>

Applicant submits that claims 1-6, 9-14, and 17-20 patentably distinguish over the applied references and are in condition for allowance. Should the examiner have any issues concerning this reply or any other outstanding issues remaining in this application, applicant urges the examiner to contact the undersigned to expedite prosecution.

Respectfully submitted,

ROSSI, KIMMS & McDOWELL LLP

09 OCTOBER 2007   /Lyle Kimms 100907/
DATE   LYLE KIMMS
                                      REG. NO. 34,079 (RULE 34, WHERE APPLICABLE)

                                      P.O. BOX 826
                                      ASHBURN, VA 20146-0826
                                      703-726-6020 (PHONE)
                                      703-726-6024 (FAX)